

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

John R. Hamparian, Alan Reid,
Robert Scarborough, Anthony C.
Lair, and NeoDevices, Inc.,

Petitioners

v.

Civil No. 05-cv-272-SM

Clay Kennard,,
Respondent

NOTICE OF RULING

Re: (Document No. 12) Motion to Compel Compliance with
Court Order and for Sanctions

Ruling: Denied. Plaintiffs are substantively correct; the state court's order was not modified or vacated with respect to ordered discovery. With regard to the directive that inventory be transferred, this court did note that disclosure of all inventory would satisfy the discovery compliance obligation but that actual delivery would not be required, under the state discovery order. However, as the court also noted during the telephonic conference, the board of course might well take action based upon plaintiff's apparent insubordination should he fail to abide by lawful directives of the board (which action would appear to be subject to arbitration under the shareholders' agreement). Whether plaintiff should comply with the board's directive to move inventory, whether plaintiff is subject to sanction for failure to comply, and what sanctions ought to obtain, are all issues that, at this juncture, are properly submitted to the arbitrator for resolution.

Entered by: Steven J. McAuliffe, Chief Judge

Date: August 26, 2005

cc: Michael J. Lambert, Esq.
Kerry T. Scarlott, Esq.
Kenneth C. Bartholomew, Esq.